

Fines a poor way to fund state's courts

By The Herald Editorial Board
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The punishment for traffic infractions and other relatively minor violations of state law ought to hurt a little and make us think twice about texting while we drive, speeding or not wearing a seatbelt.

Starting July 1 it will be \$12 more painful.

The state Supreme Court earlier this week signed [an order that increases the base penalty for traffic and some other infractions by \\$12.](#)

Revenue from the increase will be split between funding a badly needed new computer system for the state's district courts and to help pay for the defense of those who can't afford an attorney in criminal courts.

The need for more funding for both is clear. District courts are handling huge case loads that go beyond driving infractions to include drunk driving, domestic violence and other criminal matters and are using a computer system that many have called obsolete. Likewise, cities and counties need increased funding to provide the services of public defenders for the indigent.

For most of us another \$12 for a speeding ticket is only added incentive to obey the rules of the road. But the effect of the order for many lower-income state residents amounts to fining Peter to defend Paul.

Chief Justice Barbara Madsen, in defending the increase, admitted that operations of the courts shouldn't be dependent on fines and fees but that the modest increase was reasonable. Four of the court's nine justices disagreed.

Justice Mary Yu, in her dissent, compared using an increase in fines to help fund the courts to "cash register justice."

Justice Gordon McCloud noted that the justices in a separate court case recently faulted a fee system in criminal courts that causes indigent offenders to owe more over time than most, because, when they are unable to pay, fines and interest are added to what they owe.

"The majority of those fees comes from penalties imposed when a payment is missed, for whatever reason," McCloud wrote. "In other words, the people who are least able to pay up front, all at once, are the ones who end up paying the most."

McCloud also criticized the wisdom of relying too heavily on fines and fees to run the

courts, again citing the court's recent decision: "The state cannot collect money from defendants who cannot pay."

The U.S. Department of Justice, in its recent examination of the relationship between legal fees and court revenue in Ferguson, Missouri, faulted a court system where fees were based on revenue needs rather than the goals of justice, McCloud wrote.

Of [a typical \\$136 fine for a traffic infraction](#), the base penalty will now amount to \$48. The remaining \$88 goes to various other worthy accounts, fees tacked on by the Legislature, such as \$51 for public safety and education. Traffic infractions have become, rather than solely a law enforcement tool, a shadow source of revenue for the state.

As it is now being mandated to do for education and treatment of the mentally ill, the Legislature needs to increase the general fund support for all state courts, rather than taking the easy route by expecting the state Supreme Court to go after the poor to pay a greater share.

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